

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

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| J. T., et al. |) | CV. NO. 11-00612 LEK-BMK |
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| Plaintiffs, |) | FINDINGS AND |
| |) | RECOMMENDATION GRANTING |
| vs. |) | IN PART PLAINTIFFS' MOTION |
| |) | FOR ATTORNEYS' FEES |
| DEPARTMENT OF EDUCATION, |) | |
| STATE OF HAWAII |) | |
| |) | |
| Defendant. |) | |
| |) | |
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FINDINGS AND RECOMMENDATION GRANTING IN PART
PLAINTIFFS' MOTION FOR ATTORNEYS' FEES

Before the Court is Plaintiffs J.T., Renee T., and Floyd T.'s Motion for Attorneys' Fees (Doc. # 28.) After careful consideration of the motion, the supporting and opposing memoranda, and the attached documentation, the Court FINDS and RECOMMENDS that Plaintiffs' motion for attorneys' fees be GRANTED IN PART.¹ Specifically, the Court awards \$40,210.46 in attorneys' fees and costs.

The parties previously settled all issues in the instant motion, except those relating to the attorneys' fees sought by John Deller. (Doc. # 40.) With

¹ Pursuant to Rule LR7.2(d) of the Local Rules of Practice of the United States District Court for the District of Hawaii ("Local Rules"), the Court elects to decide this matter without a hearing.

respect to those fees, the Department of Education (“DOE”) asserts that Mr. Dellera’s billing entries are inadequate and that the time spent by Mr. Dellera is excessive. (Doc. # 31.) The Court agrees and imposes a fifteen percent reduction on the fees charged by Mr. Dellera prior to those documented in the reply brief of the instant motion.

Local Rule 54.3(d)(2) requires a reasonable description of the work performed in order to collect attorneys’ fees, and provides that “entries describing the preparation of pleadings and other papers must include an identification of the pleading or other document prepared and the activities associated with such preparation.” Many of Mr. Dellera’s entries do not comply with this rule because they do not describe the activities associated with his preparation of pleadings. For instance, many of Mr. Dellera’s entries are “Work on Opening Brief,” “Work on reply brief,” and “Work on fees motion.” (Doc. #28, Ex. A.) Because the Court cannot evaluate the reasonableness of the hours expended on the above tasks, the Court concludes that a reduction in fees is appropriate. The Court imposes a fifteen percent reduction of Mr. Dellera’s fees because the inadequate descriptions are common and it is difficult for the Court to ascertain the reasonableness of the request entry by entry. See Schrum v. Burlington Northern Santa Fe Ry. Co., Civ. No. 04-0619 PHX-RCB, 2008 WL 2278137, at *9 (D. Ariz. May 30, 2008)

(applying percentage reduction). The Court imposes this reduction to the 142.4 hours billed prior to the drafting of the statement of consultation in the instant motion, because the fees billed for drafting the statement of consultation and reply brief appear reasonable.

Furthermore, the Court declines to impose a reduction based on any of the other rationales in the DOE's opposition. Once the percentage reduction is imposed, the requested fees do not appear unreasonable. A downward adjustment of the fee award in light of the Court's denial of reimbursement tuition is also inappropriate, because the Court remanded the matter to the Hearings Officer to determine the appropriate award of compensatory education to Plaintiffs. (Doc. # 27 at 67-68.) Therefore, the Court concludes that the requested fees are reasonable after a fifteen percent reduction.

Based on the foregoing, the Court calculates the lodestar as follows:
 $[142.4 \text{ hours} * .85 \text{ (fifteen percent reduction)} + 18.6 \text{ (fees billed for reply brief and statement of consultation)}] * \$275 \text{ per hour} = \$38,401$. After adding general excise tax (4.712%), the Court FINDS and RECOMMENDS that Plaintiffs are entitled to \$40,210.46 in attorneys' fees.

DATED: Honolulu, Hawaii, October 31, 2012.

IT IS SO FOUND AND RECOMMENDED.



/s/ Barry M. Kurren

United States Magistrate Judge

J.T. v. Dept. of Educ., State of Hawaii; Civ. No. 11-00612 LEK-BMK; FINDINGS AND
RECOMMENDATION GRANTING IN PART PLAINTIFFS' MOTION FOR ATTORNEYS'
FEES